

## **REMARKS**

### **I. Introduction**

This paper is filed in response to the final Office Action mailed September 24, 2007.

Assignee has amended claims 1, 3, 6, 16, 27 and 29 to comply with requirements of form set forth in the Office Action, or otherwise to present claims in better form for consideration on appeal. *See* 37 C.F.R. § 1.116. Assignee respectfully requests entrance of the amendments. No new matter is added by these amendments. After entry of the present amendment, claims 1-31, 103 and 104 remain pending in the present application.

Assignee traverses each of the Examiner's rejections. Reconsideration and allowance of all pending claims is respectfully requested in view of the remarks below.

### **II. Rejection Under 35 U.S.C. § 112, Second Paragraph**

The Office Action rejected claims 1-31, 103 and 104 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Specifically, the Office Action stated the claims omit an essential step of "previously contributing a data element." Although the Assignee disputes the finding that the claims omit an essential step, or are otherwise indefinite, claims 1 and 27 are amended by the present response in order to further prosecution and to recite, in part, "said input content comprising a plurality of contributed data elements contributed by the contributing member." (Underlining Supplied.) Accordingly, the Assignee respectfully submits that claims 1-31, 103 and 104 do not omit an essential step and are patentable under 35 U.S.C. § 112, second paragraph.

The Office Action also stated that the recitation in claim 6 of “the content of the contributing member’s information contribution” lacks antecedent basis and that similar language in claim 29 involves the same insufficiency. Claims 6 and 29 are amended to delete “content of the contributing member’s information contribution to the exchange repository” and add “type and number of contributed data elements,” the antecedent basis for which may be found in claims 1 and 27, respectively. Accordingly, the Assignee respectfully submits that claims 6 and 29 do not suffer an insufficient antecedent basis and are patentable under 35 U.S.C. § 112, second paragraph.

Withdrawal the rejections of claims 1-31, 103 and 104 under 35 U.S.C. § 112, second paragraph is respectively requested.

### **III. Rejection Under 35 U.S.C. § 103(a)**

#### **A. Claims 1-11, 16-21, 23-24 and 26-31**

The Office Action rejected claims 1-11, 16-21, 23-24 and 26-31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,405,175 to Ng in view of U.S. Patent No. 7,092,821 to Mizrahi *et al.* and U.S. Patent No. 7,181,518 to Matsumoto, *et al.* For the reasons set forth below, the Assignee respectfully traverses this rejection and requests its reconsideration and withdrawal.

Specifically, the Assignee submits that the Office Action has failed to establish *prima facie* obviousness. To establish *prima facie* obviousness of a claimed invention under 35 U.S.C. § 103, the Office Action must show, either from the references themselves or in the knowledge generally available to one of ordinary skill in the art, that it would have been

obvious under *Graham v. John Deere Co.*<sup>1</sup> to modify the references or to combine teachings in the references to arrive at the claimed invention. See MPEP § 2143; *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. \_\_\_\_, 82 U.S.P.Q.2d 1385, 1395-96 (2007). Such a showing requires Examiners to determine whether there was an apparent reason to combine elements in references and to articulate that reason. See *KSR*, 82 U.S.P.Q.2d at 1596 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness")). The Assignee submits that no reason or rationale exists for one skilled in the art to combine the disclosures in Ng, Mizrahi, and Matsumoto, and that the Office Action failed to articulate a reason why one skilled in the art would combine the disclosure of Matsumoto with Ng and/or Mizrahi.

i. Combination of Ng and Mizrahi

The Office Action stated that "it would have been obvious to one of ordinary skill to combine the teachings of Ng and Mizrahi *et al.* in order to limit the effects of or prevent fraudulent product reviews [citations omitted]." Office Action, pg. 6. The Office Action's proposed rationale for rejecting 1-11, 16-21, 23-24, and 26-31 appears to include combining elements according to known methods to yield predictable results. This rationale requires that the claimed elements are combinable with no change in their respective functions. See *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the*

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<sup>1</sup> 383 U.S. 1 (1966)

*Supreme Court Decision in KSR International Co. v. Teleflex Inc.*, Federal Register Vol. 72, No. 195, 57526-57535, 57529 (October 10, 2007). As set forth in the Response to Office Action, dated July 3, 2007, combining elements disclosed in Mizrahi with elements disclosed in Ng changes the function of those elements.

Ng discloses a website in which consumer-users can input information about a product and receive rewards for providing the information. *See* Col. 4, lines 50-58. Specifically, Ng discloses rewarding users that provide information about a product. *See id.* The rewards can include bonus online time, special offers, telephone calling card minutes, hotel nights, or other discounts. *See, e.g.*, Col. 9, lines 25-29. Ng determines the amount of reward points a user earns based on the provided information, the volume of users who actually use the provided information, and correct information. *See, e.g.* Col. 5, lines 4-25.

Mizrahi discloses an online interaction system allowing individuals to converse or otherwise interact with each other using questions, comments and other responses to questions. Interactions occur by users supplying answers to questions presented by other users and commenting on other users statements and otherwise allowing users to interact with each other. Other user's comments and questions are viewable by the user based on the rank of the comment or question. *See, e.g.*, Col. 2, lines 32-35. The rank is determined from a minimum number of users ranking each comment or question. *See id.*

Mizrahi discloses controlling user input, such as by limiting the number of comments a user can make based on past comments with low ranking. *See, e.g.*, Col. 52, lines 52-55 (emphasis added). Regardless of what they are allowed to input, users can access

information as they desire in view of a maximum information assimilation rate of each user, unless it is manually or automatically filtered. *See* Abstract; Col. 25, lines 47-53. Filtering is based on a person's interests, geographical location, or question timelines and not on the user's contribution. *See id.*

A person of ordinary skill in the art who combines Ng with Mizrahi would create a system in which users receive rewards, where such rewards are not dependent on whether they provide product information, much less the type and quantity of information they provide. Users would be limited or blocked from providing product information if their previously supplied product information is ranked low, but users could still receive rewards even without providing product information. Such a system would, apart from being nonsensical, destroy the reward incentive in Ng for users to provide any product information, much less accurate information, since the reward incentive would not be dependent on the product information the user provided. Any user, whether they provided product information, would still receive rewards and thus there would be no incentive for users to participate by providing product information.

A person of ordinary skill in the art who combines Mizrahi with Ng would create a system in which users can provide as many questions or statements as they desire and receive questions or statements, even if the questions or statements are ranked low by other users. Such a system would destroy user input control and effective interactivity goals of Mizrahi. Instead of controlling user input by questions or statements previously provided by the user, users could enter as many statements or questions, as desired, without limitation, even if the

information they previously entered is ranked low by other users. Furthermore, users could receive questions and statements submitted by other parties even if such questions and statements are ranked low, thereby obliterating Mizrahi's goal to provide effective information to users based on rankings.

Furthermore, Ng teaches away from the claimed invention because it discloses output in the form of rewards which are not data, and which are independent of the type and number of data elements contributed by the user; the rewards are generic to the content and the user can use them as he/she wishes. Mizrahi also teaches away from the claimed invention because it controls input instead of access to receive information, as required in claims, and by the determinations made by other users.

Moreover, one skilled in the art has no reason to limit consumer-users access to product information in Ng to "limit the effects of or prevent fraudulent product reviews." *See* Office Action, pg. 6. The reward system in Ng furnishes the incentive for users to provide correct information. Users providing "fraudulent information" in Ng do not receive a reward, but can still access product information and cause another user that provided correct information to receive rewards if the fraudulent information providing user selects that correct product information. *See* Ng, Figure 5, 102. Users can even correct "fraudulent information" to receive rewards. *See id.* One skilled in the art has no reason to limit user access to product information in Ng to limit the effects of or prevent fraudulent product reviews when those users providing "fraudulent information" provide reward opportunities for other users.

For at least the reasons set forth above, the Assignee respectfully submits that the Office Action failed to establish *prima facie* obviousness and withdrawal of the rejection is requested.

ii. Combination of Ng, Mizrahi and Matsumoto

The Office Action combined the disclosures of Ng and Mizrahi with Matsumoto, stating that “Matsumoto *et al.* teach limiting access to a type and number of stored data elements based on a score [citations omitted].” Office Action, pg. 6. As stated above, a finding of obviousness requires Examiners to determine an apparent reason to combine elements in references and to articulate that reason. *See KSR*, 82 U.S.P.Q.2d at 1596 (internal citations omitted). The Office Action offered no rationale or reason why a person of ordinary skill in the art would include the disclosure of Matsumoto with Ng and Mizrahi. Instead, the Office Action only stated what Matsumoto allegedly disclosed. Furthermore, no such rationale or reason exists.

As stated above, Ng is directed to a website in which consumer-users can input information about a product and receive rewards for providing information about a product, where the reward is based on the provided information, the volume of users who actually use the provided information, and whether the information is correct. (*See* Col. 4, lines 50-58, Col. 5, lines 4-25). The reward system is dependent on the users ability to provide and access product information.

Matsumoto relates to supporting text message exchanges between individuals and includes limiting the number of channels that a user can join, and the user’s ability to send

and receive messages, based on the rating data of a user. *See* Col. 1, ll. 6-9; Col. 12, ll. 58-59; Col. 13, ll. 28-39. The rating data indicates the degree of harmfulness of a user and depends on the number of harmful URLs mentioned by the user. *See* Col. 7, ll. 35-41.

A person of ordinary skill in the art who combines Ng with Matsumoto would create a system in which a user receives rewards and access to product information depending on user's rating data being below a certain value. If the user's rating data is below the certain level, the user would receive rewards, just like users receiving messages or access to channels in Matsumoto, even without providing product information. Once the rating data rose above the certain value, users would be locked out of the system and prevented from receiving rewards or even accessing product information. Similar to the combination of Ng and Mizrahi, such a system, apart from being nonsensical, would destroy the reward incentive in Ng for users to provide any product information since they would receive rewards even without providing product information. Moreover, such a system would destroy the rewards in Ng providing an incentive for users to correct incorrect product information by blocking those who provided it from accessing the system again.

Accordingly, the Assignee respectfully submits that the Office Action has failed to establish *prima facie* obviousness of claims 1-11, 16-21, 23-24, and 26-31. For at least the reasons set forth above, withdrawal of the rejection and allowance of claims 1-11, 16-21, 23-24, and 26-31 is respectfully requested.



**B. Claims 12-15 and 22**

The Office Action rejected claims 12-15 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Ng, Mizrahi, and U.S. Patent No. 5,710,884 to Dedrick. Because claims 12-15 and 22 depend from and further limit claim 1, claims 12-15 and 22 are patentable for a least the same reasons. Assignee respectfully requests that the Examiner withdraw the rejection of claims 12-15 and 22.

**IV. Non-limiting Claim Elements**

The Office Action stated that certain elements recited in claims 1, 2, 3, 16, 27, 28, and 31 do not limit the claims. For the reasons set forth below, the Assignee respectfully disagrees with the Office Action and requests withdrawal of the finding that elements in claims 1, 2, 3, 16, 27, 28, and 31 do not limit the claims.

**A. Claims 1 and 27**

The Office Action stated that “determining access ‘to receive a type and number of stored data elements,’” does not limit the scope of claims 1 and 27 “as the member never receives data from the repository.” Office Action, pg. 5. Although the Assignee respectfully disagrees, claims 1 and 27 are amended to recite “determining the contributing member’s access to the exchange repository to receive a type and number of stored data elements in the exchange repository based, at least in part, on the score.” (Underlining supplied.) Accordingly, the Assignee respectfully submits that the element “determining the contributing member’s access to the exchange repository to receive a type and number of stored data elements in the exchange repository based, at least in part, on the score,” as

recited in claims 1 and 27 further limit those claims. Withdrawal of the finding that the element does not limit the claims is respectfully requested.

**B. Claims 2, 28 and 31**

The Office Action stated that the type of business identifier in claims 2, 28 and 31 does not further limit claim 1 because the identifier is not related to the steps of receiving, storing, associating, creating and determining. *See* Office Action, pg. 6. Claims 2 and 28 each recite “wherein associating the input data file with the business entity identifier includes associating information relating to a guarantor of the business entity with the business entity identify.” Claims 2 and 28 are related to, and further limit, the step of “associating the input data file with a business entity identifier” recited in claims 1 and 27, respectively.

Moreover, claim 31 recites “wherein associating the input data file with the business entity identifier comprises associating information relating to trade data of the business entity and at least one inquiry issued by at least one of the at least two members.” Claim 31 is related to, and further limits, the step of “associating the input data file with a business entity identifier” recited in claim 27.

Accordingly, the Assignee respectfully submits that claims 2, 28 and 31 further limit the claims on which the depend. Withdrawal of the finding that claims 2, 28 and 31 do not limit the claims on which they depend is respectfully requested.

**C. Claim 3**

The Office Action stated attributes of a contributing member in claim 3 does not further limit the method steps of claim 1. Although the Assignee respectfully disagrees,

claim 3 is amended to recite “further comprising associating the member profile with a member number, said member number identifying information relating to the contributing member.” Accordingly, claim 3 further limits claim 1. Withdrawal of the finding that claim 3 does not limit claim 1 is respectfully requested.

**D. Claim 16**

The Office Action stated attributes of a data file in claim 16 does not further limit the method steps of claim 1. Although the Assignee respectfully disagrees, claim 16 is amended to recite “wherein receiving the input data file from a contributing member comprises receiving the input data file comprising a trailer record to facilitate a verification of an input data contribution process.” Accordingly, claim 16 further limits claim 1. Withdrawal of the finding that claim 16 does not limit claim 1 is respectfully requested.

**V. Assertions of Fact**

The Office Action stated the following assertions of fact have gone unchallenged and are considered admitted prior art:

verifying user account information

mailing a prize to a user’s home address

Office Action, pg. 2.

The Assignee respectfully challenges the consideration of (1) verifying user account information, (2) mailing a prize to a user’s home address, and (3) making a change to a database as a result of a legal action (*see* Office Action, pg. 7) as “old and well known.” The

Assignee requests that the Examiner identify the references on which the Examiner is relying in considering such elements as prior art.


**VI. Claims 103 and 104**

The Assignee notes that the Office Action did not reject claims 103 and 104 under 35 U.S.C. §§ 102 or 103, although a previous Office Action, mailed April 4, 2007, rejected claims 103 and 104 without a stated reason. After reviewing this Response and Amendment, should the Examiner opine that any one or more of claims 103 and 104 is anticipated or rendered obvious by a reference, a full and clear statement of the grounds on which these claims are rejected is requested pursuant to MPEP § 707.07(d) so that any rejection is clearly articulated to provide the Assignee with the opportunity to provide evidence of patentability or otherwise reply completely at the earliest opportunity. *See* 35 U.S.C. § 132; MPEP § 706.

**CONCLUSION**

Claims 1 – 31, 103 and 104 are pending in the application. The Office Action rejection is believed to be traversed by the present amendment and response. Allowance of claims 1 – 31, 103 and 104 is respectfully requested. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 745-2520 if such contact will facilitate a Notice of Allowance for claims 1 – 31, 103 and 104. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,

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